THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 5878 OF 2006

Between:

K. Mohan s/o Thirupathaiah,

Mandamarri, Adilabad District.

… PETITIONER

And:

The Singareni Collieries Co. Ltd.

Mandamarri, Adilabad District.

… RESPONDENT

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 5878 OF 2006

ORAL ORDER:

What is challenged is the order of the respondent dated 1.3.2006 terminating a non-statutory contract between the petitioner and the respondent for transporting of coal from K.K.1 Incline to RKP CSP point.

The contract was awarded to the petitioner by proceedings dated 18.11.2004 for the

period from 22.11.2004 to 23.11.2006. Clause 14A of the Conditions of Agreement enables the termination of the contract by giving a month's notice without assigning any reasons whatsoever. The petitioner as a contractor is also entitled to intimate the intention to terminate the contract by giving three months notice.

Exercising the power under Cl.14 of the Conditions of Agreement the impugned order dt 1.3.2006 has been passed by the respondent. The petitioner having signed the contract with the aforesaid terms now complains that Cl.14 is arbitrary. Cl.14 gives an equal and shared power to either party to the agreement to terminate the contract. If the power i.e., termination of contract, is unusual, such power is a shared power between the contractor and the employer. It does not appear in the context to be arbitrary.

In any event it is not an employment contract but a commercial contract between two consulting and willing persons natural and jural. Importation of public law principles into such non-statutory contract is not the widely established principle vide ***Radhakrishna Agarwal v State of Bihar()*** and ***LIC v Escorts ()***.

However the petitioner has an available civil remedy before a civil court of competent jurisdiction in respect of any dispute between parties qua Clause 26. No public law principle is involved warranting adjudication under Art. 226 of the Constitution. The writ petition is accordingly dismissed with a liberty to the petitioner to pursue the alternative remedy, if he so desires. No order as to costs.

Dated: 24.03.2006 ----------

Pvsn Justice G. Raghuram